THE HON'BLE SRI JUSTICE V.ESWARAIAH

W.P.No.8067 of 2006

Dt.21.4.2006

Between:

Vijaya Lakshmi Nursing Home, rep.

By its Parter Aluri Murali Krishna Murthy … Petitioner

And

The Municipal Corporation of

Kakinada, rep. By the Commissioner,

Kakinada, East Godavari District and another

…Respondents

ORDER:

Petitioner questions the action of the respondents in widening the roads by demolishing any part of the petitioner's building bearing D.No.13-1-13 in Main Road, Suryaraopet, Kakinada, East Godavari District, without issuing any notice under the provisions of Sections 146 or 147 of the Hyderabad Municipal Corporations Act, 1955 without paying any compensation under the provisions of the Land Acquisition Act as illegal and arbitrary.

Petitioner is the absolute owner and possessor of the premises bearing D.No.13-1-13, Main Road, Suryaraopet, Kakinada, to an extent of about 1700 sq.yards through

registered sale deed document No.1012 and 1014, dt.28.3.1977. The petitioner is a registered firm. While so, the first respondent Municipal Corporation has taken road widening programme with a view of ease the traffic congestion and thereby ensure free flow of traffic. Though the petitioner's premises is not in a congested part of the road, the respondent intends to acquire 11 feet wide strip of land and demolish the structure thereon. It is stated that the respondent Corporation has already marked the effected portion for demolishing the structures of the petitioner without issuing any notice either under Section 146 and 147 of the Hyderabad Municipal Corporation Act, 1955 or a notice under the provisions of the Land Acquisition Act, 1894.

Heard the learned counsel for the petitioner as well as the standing counsel on behalf of the respondents.

The learned counsel for the petitioner submits that the respondents without issuing any notice and without initiating any proceedings and without paying any compensation trying to demolish the building of the petitioner for widening of road. The learned counsel for the petitioner further submits that the action of the respondents without following the due procedure prescribed under law and without paying any compensation either by way of private negotiations or by way of initiating proceedings under the Land Acquisition Act, 1894 is utter violation of the principles of natural justice as well as Sections 146 or 147 of the Hyderabad Municipal Corporations Act, 1955 (for short 'the Act').

No doubt widening/laying of the road is in the public interest but while laying the road, if any property of private individual is coming in the way, it is for the respondents to acquire the same either by way of initiating land acquisition proceedings or by following due process of law. This Court disposed of number of writ petitions directing the respondents not to demolish the property of the private citizens without following due process of law.

Having regard to the facts and circumstances of the case, this writ petition is disposed of directing the respondents not to demolish the structures or take away any portion of the property of the petitioner without following due process of law either under Sections 146 or 147 of the Act or by private negotiations or by initiating the proceedings under the Land Acquisition Act, 1894. No costs.

V.ESWARAIAH, J.

April 21, 2006.

kpr